

FEDERAL REGISTER

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Washington, Wednesday, July 20, 1938

The President

ENLARGING THE DINOSAUR NATIONAL MONUMENT—COLORADO AND UTAH

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS certain public lands contiguous to the Dinosaur National Monument, established by Proclamation of October 4, 1915, have situated thereon various objects of historic and scientific interest; and

WHEREAS it appears that it would be in the public interest to reserve such lands as an addition to the said Dinosaur National Monument:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by sec. 2 of the act of June 8, 1906, ch. 3060, 34 Stat. 225 (U. S. C., title 16, sec. 431), do proclaim that, subject to all valid existing rights, the following-described lands in Colorado and Utah are hereby reserved from all forms of appropriation under the public-land laws and added to and made a part of the Dinosaur National Monument:

COLORADO

Sixth Principal Meridian

- T. 6 N., R. 99 W.,
sec. 5, W $\frac{1}{2}$,
secs. 6 and 7,
sec. 8, W $\frac{1}{2}$,
sec. 17, W $\frac{1}{2}$,
secs. 18 and 19,
sec. 20, W $\frac{1}{2}$,
sec. 29, W $\frac{1}{2}$,
secs. 30, 31,
sec. 32, W $\frac{1}{2}$; (partly unsurveyed)
- T. 6 N., R. 100 W., secs. 1 to 30 and 33 to 36, inclusive; (partly unsurveyed)
- T. 6 N., R. 101 W., secs. 1 to 30, inclusive; (partly unsurveyed)
- T. 7 N., R. 101 W., secs. 25 to 36, inclusive; (partly unsurveyed)
- T. 6 N., R. 102 W., secs. 1 to 30, inclusive; (partly unsurveyed)
- T. 7 N., R. 102 W., secs. 5 to 8, 17 to 20, and 25 to 36, inclusive; (partly unsurveyed)
- T. 8 N., R. 102 W., secs. 5 to 8, 17 to 20, and 27 to 34, inclusive; (partly unsurveyed)

- T. 9 N., R. 102 W., secs. 16 to 21, and 28 to 33, inclusive; (partly unsurveyed)
- T. 6 N., R. 103 W.,
secs. 1 to 14, inclusive;
secs. 23 and 24;
- T. 7 N., R. 103 W., all; (partly unsurveyed)
- T. 8 N., R. 103 W.,
sec. 1,
sec. 2, E $\frac{1}{2}$,
sec. 11, E $\frac{1}{2}$,
secs. 12 to 15, 22 to 28, and 32 to 36, inclusive; (partly unsurveyed)
- T. 9 N., R. 103 W., secs. 13, 24, 25 and 36;
- T. 6 N., R. 104 W., secs. 1, 2, 11 and 12; (partly unsurveyed)
- T. 7 N., R. 104 W., all;

UTAH

Salt Lake Meridian

- T. 4 S., R. 23 E.,
secs. 9 to 16 and 21 to 25, inclusive;
sec. 26, N $\frac{1}{2}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$,
W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$,
secs. 27, 28, and those parts of secs. 34 and 35 north of Green River; (partly unsurveyed)
- T. 3 S., R. 24 E., secs. 25, 26, 35 and 36;
- T. 4 S., R. 24 E., secs. 1 to 3, and 7 to 30; inclusive, (partly unsurveyed)
- T. 3 S., R. 25 E.,
sec. 11, E $\frac{1}{2}$,
secs. 12 and 13,
sec. 14, E $\frac{1}{2}$,
secs. 20 to 36; inclusive, (partly unsurveyed)
- T. 4 S., R. 25 E., secs. 1 to 12, inclusive, (partly unsurveyed)
- aggregating 203,885 acres.

Warning is hereby expressly given to any unauthorized persons not to appropriate, injure, destroy or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

The reservation made by this proclamation supersedes as to any of the above-described lands affected thereby, the temporary withdrawal for classification and for other purposes made by Executive Order No. 5684 of August 12, 1931, and the Executive order of April 17, 1926, and the Executive order of September 8, 1933, creating Water Reserves No. 107 and No. 152.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of this monument as provided in the act of Congress entitled "An act to establish

CONTENTS

THE PRESIDENT

Proclamation:	Page
Dinosaur National Monument, Colo.-Utah, enlargement.....	1765
Fort Laramie National Monument, Wyo., creation.....	1768
Migratory bird regulations amended	1766
Ocala National Forest, Fla., land included in	1769

RULES, REGULATIONS, ORDERS

TITLE 7—AGRICULTURE:	
Bureau of Agricultural Economics:	
Export Apple and Pear Act, rules amended	1769
Bureau of Entomology and Plant Quarantine:	
Fumigation of onions by methyl bromide	1769
TITLE 26—INTERNAL REVENUE:	
Bureau of Internal Revenue:	
Excess-profits tax imposed by Revenue Act of 1938.....	1771
Income tax, extensions of time for payment of deficiencies	1771

NOTICES

Rural Electrification Administration:	
Allocation of funds for loans....	1774
Securities and Exchange Commission:	
Hearings:	
Copper District Power Co., Middle West Corp.....	1775
Indianapolis Power & Light Co.....	1775
Midland United Co. (Morris and Shannahan, trustees)	1774
Midland Utilities Co. (Morris and Shannahan, trustees; and Millard B. Kennedy) ..	1774

(Continued on next page)



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CONTENTS—Continued

Securities and Exchange Commission—Continued.	Page
Hearings—Continued.	
Rainbow Luminous Products, Inc., common stock.....	1776
Unity Gold Corp., stop order....	1776
United States Civil Service Commission:	
Apportionment at close of business Friday, July 15, 1938...	1777

a National Park Service, and for other purposes," approved August 25, 1916, 39 Stat. 535 (U. S. C., title 16, secs. 1 and 2) and acts supplementary thereto or amendatory thereof, except that this reservation shall not affect the operation of the Federal Water Power Act of June 10, 1920 (41 Stat. 1063), as amended, and the administration of the monument shall be subject to the Reclamation Withdrawal of October 17, 1904, for the Brown's Park Reservoir Site in connection with the Green River project.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 14th day of July, in the year of [SEAL] our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL

The Secretary of State.

[No. 2290]

[F. R. Doc. 38-2060; Filed, July 18, 1938; 3:18 p. m.]

AMENDMENT OF REGULATIONS RELATING TO MIGRATORY BIRDS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the Secretary of Agriculture, pursuant to section 3 of the Migratory Bird Treaty Act, approved July 3, 1918 (40 Stat. 755), as amended by the act of June 20, 1936, 49 Stat. 1555, has adopted and submitted to me regulations amending certain of the regulations approved by Proclamation No. 2245 of July 30, 1937,¹ which he has determined to be suitable amendments of such regulations permitting and governing hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, exportation and importation of migratory birds and parts, nests, and eggs thereof, included in the terms of the Convention between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, and the Convention between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, which amendatory regulations are as follows:

AMENDMENTS OF MIGRATORY BIRD TREATY ACT REGULATIONS ADOPTED BY THE SECRETARY OF AGRICULTURE

Pursuant to the authority and direction contained in section 3 of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755), as amended by the Act of June 20, 1936 (49 Stat. 1555), I, H. A. Wallace Secretary of Agriculture, having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits and times and lines of migratory flight of migratory birds included in the terms of the Convention between the United States and Great Britain for the protection of migratory birds, concluded August sixteenth, nineteen hundred and sixteen, and the Convention between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February seventh, nineteen hundred and thirty-six, have determined when, to what extent, and by what means it is compatible with the terms of said Conventions and Act to allow hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, exportation and importation of such birds and parts thereof and their nests and eggs, and, in accordance with such determinations, do hereby adopt the following amendments of the Regulations relating to migratory birds and certain game mammals, approved and proclaimed July 30, 1937 (50 Stat. 1844), as suitable amendments of said regulations, permitting and governing hunting, taking, capture, killing, possession, sale,

purchase, shipment, transportation, carriage, exportation and importation of said migratory birds and parts, nests, and eggs thereof:

The second paragraph of Regulation 3, "Means by Which Migratory Game Birds May be Taken", is amended by striking out the period at the end thereof and adding the words "and coot."

Regulation 4, "Open Seasons on and Possession of Certain Migratory Game Birds", is amended to read as follows:

Regulation 4.—Open Seasons on and Possession of Certain Migratory Game Birds

Waterfowl (except snow geese and brant in Florida and all States north thereof bordering on the Atlantic Ocean, Ross's goose, wood duck, and swans), and coot, may be taken each day from 7 a. m. to 4 p. m., and rails and gallinules (other than coot), Wilson's snipe or jacksnipe, woodcock, mourning doves, white-winged doves, and band-tailed pigeons from 7 a. m. to sunset, each day during the open seasons prescribed therefor in this regulation, and they may be taken by the means and in the numbers permitted by regulations 3 and 5 of these regulations, respectively, and when so taken may be possessed in the numbers permitted by regulation 5 any day in any State or Territory, or in the District of Columbia during the period constituting the open season where taken and for an additional period of 10 days next succeeding said open season, but no such bird shall be possessed in a State or Territory, or in the District of Columbia at a time when such State, Territory, or District prohibits the possession thereof. Nothing herein shall be deemed to permit the taking of migratory birds on any reservation or sanctuary established under the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222), nor on any area of the United States set aside under any other law, proclamation, or Executive order for use as a bird, game, or other wildlife reservation, breeding grounds, or refuge except insofar as may be permitted by the Secretary of Agriculture under existing law, nor on any area adjacent to any such refuge when such area is designated as a closed area under the Migratory Bird Treaty Act.

Waterfowl, Wilson's snipe or jacksnipe, and coot.—The open seasons for waterfowl (except snow geese and brant in Florida and all States north thereof bordering on the Atlantic Ocean, Ross's goose, wood duck, and swans), Wilson's snipe or jacksnipe, and coot, in the several States and Alaska, shall be as follows, both dates inclusive:

In Maine, Michigan, Minnesota, New Hampshire, North Dakota, South Dakota, Vermont, and Wisconsin, October 1 to November 14.

In California, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa,

¹ 2 F. R. 1355 (1615 DI).

Kansas, Kentucky, Massachusetts, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, including Long Island, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Washington, West Virginia, and Wyoming, October 15 to November 28.

In Alabama, Arizona, Arkansas, Florida, Georgia, Louisiana, Maryland, Mississippi, New Mexico, North Carolina, South Carolina, Tennessee, Texas, and Virginia, November 15 to December 29.

In Alaska north of the summit of the Alaska Range and Kuskokwim-Bristol Bay Divide, September 1 to October 15; south of the Alaska Range and Kuskokwim-Bristol Bay Divide and east of the Naknek River and Lake and Katmai National Monument to the 141st Meridian, September 16 to October 30; southeastern Alaska from the 141st Meridian south to Dixon Entrance, October 1 to November 14; and south and west of Naknek River and Lake and Katmai National Monument to the tip of the Alaskan Peninsula, including all adjacent islands in the Public Domain and Kodiak Island, November 1 to December 15; *Provided*, That scoters, locally known as sea coots, may be taken in open coastal waters only, beyond outer harbor lines, in Maine and New Hampshire from September 15 to September 30, and in Connecticut, Massachusetts, and Rhode Island, from September 15 to October 14, and thereafter from land or water during the open seasons for other waterfowl in said States.

Rails and gallinules (except coot).—The open season for rails and gallinules (except coot), shall be from September 1 to November 30, both dates inclusive, except as follows:

Alabama, November 20 to January 31.
Louisiana, November 1 to January 31.
New York including Long Island, October 15 to November 28.

Washington, and Massachusetts, October 1 to November 30.

Wisconsin, October 1 to November 14.

District of Columbia, no open season.

Woodcock.—The open seasons for woodcock shall be as follows, both dates inclusive:

That portion of New York lying north of the tracks of the main line of the New York Central Railroad extending from Buffalo to Albany and north of the tracks of the main line of the Boston and Albany Railroad extending from Albany to the Massachusetts State line, and in Michigan, Minnesota, New Hampshire, North Dakota, Pennsylvania, and Vermont, October 1 to October 31.

That portion of New York lying south of the line above described and in Delaware, Indiana, Iowa, New Jersey, Ohio, and West Virginia, October 15 to November 14.

That portion of New York known as Long Island, November 1 to November 30.

Arkansas, Kentucky, Maryland, Oklahoma, and Virginia, November 15 to December 15.

Connecticut, and Rhode Island, October 21 to November 20.

Louisiana, January 1 to January 31.

Maine, October 10 to November 9.

Massachusetts, October 20 to November 19.

Missouri, November 10 to December 10.

Wisconsin, October 17 to October 31.

Mourning doves.—The open seasons for mourning doves shall be as follows, both dates inclusive:

Alabama, in the counties of Pickens, Tuscaloosa, Jefferson, Shelby, Talladega, Clay, Randolph, and all counties north thereof; Georgia, in the counties of Troup, Merriwether, Pike, Lamar, Monroe, Jones, Baldwin, Washington, Jefferson, Burke, and all counties north thereof; Mississippi, north of U. S. Highway 80; and South Carolina, in the counties of Aiken, Edgefield, McCormick, Greenwood, Abbeville, Anderson, Oconee, Pickens, Greenville, Laurens, Spartanburg, Cherokee, Union, Fairfield, Chester, and York, September 1 to September 30 and December 20 to January 31.

Alabama, Georgia, and South Carolina, in the counties other than those aforesaid, and Mississippi south of U. S. Highway 80, November 20 to January 31.

Arizona, Arkansas, California, Idaho, Kansas, Minnesota, Missouri, Nevada, New Mexico, Oklahoma, Tennessee, and Virginia, September 1 to November 15.

Delaware, and Maryland, September 1 to September 30 and November 15 to December 31.

Florida (except in Dade, Broward, and Monroe Counties), November 20 to January 31.

That portion of Florida comprising Dade, Broward, and Monroe Counties, October 1 to November 15.

Illinois, September 1 to September 30.

Kentucky, September 1 to October 31.

Louisiana, October 15 to December 31.

North Carolina, September 1 to September 30 and December 20 to January 31.

Texas, in the counties of Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Haskell, Throckmorton, Young, Jack, Wise, Denton, Collin, and Hunt, and all counties north thereof, and in the counties of Parker, Tarrant, Dallas, Rockwall, Kaufman, Johnson, Hopkins, Delta, and Franklin, September 1 to October 31; in the remainder of the State, September 15 to November 15.

White-winged doves.—The open season for white-winged doves shall be as follows, both dates inclusive:

Arizona, August 1 to September 15.

Texas, in the counties of Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Haskell, Throckmorton, Young, Jack, Wise, Denton, Collin, and Hunt, and all counties north thereof, and in the counties of Parker, Tarrant, Dallas, Rockwell, Kaufman, Johnson, Hopkins, Delta, and Franklin, September 1 to October 31; in the remainder of the State, September 15 to November 15.

Band-tailed pigeons.—The open seasons for band-tailed pigeons shall be as follows, both dates inclusive:

Arizona, and Oregon, October 16 to October 30.

California, December 1 to December 15.

New Mexico, October 1 to October 15.

Washington, September 16 to September 30.

Regulation 5, "Daily Bag and Possession Limits on Certain Migratory Game Birds", is amended to read as follows:

Regulation 5.—Daily Bag and Possession Limits on Certain Migratory Game Birds

A person may take in any one day during the open seasons prescribed therefor in regulation 4 of these regulations not to exceed the following numbers of migratory game birds, which numbers shall include all birds taken by any other person who for hire accompanies or assists him in taking such birds; and when so taken these may be possessed in the numbers specified as follows:

Ducks (except wood duck).—Ten in the aggregate of all kinds, of which not more than 3 of any one, or more than 3 in the aggregate, may be of the following species—canvasback, redhead, bufflehead, and ruddy; and any person at any one time may possess not more than 20 ducks in the aggregate of all kinds, of which not more than 6 of any one, or more than 6 in the aggregate, may be of the following species—canvasback, redhead, bufflehead, and ruddy.

Geese and brant (except snow geese and brant in Florida and all States north thereof bordering on the Atlantic Ocean, and Ross's goose).—Five in the aggregate of all kinds, and any person at any one time may possess not more than 10 in the aggregate of all kinds.

Rails and gallinules (except sora and coot).—Fifteen in the aggregate of all kinds, and any person at any one time may possess not more than 15 in the aggregate of all kinds.

Sora.—Fifteen, and any person at any one time may possess not more than 15.

Coot.—Twenty-five, and any person at any one time may possess not more than 25.

Wilson's snipe or jacksnipe.—Fifteen, and any person at any one time may possess not more than 15.

Woodcock.—Four, and any person at any one time may possess not more than 4.

Mourning doves and white-winged doves.—Fifteen in the aggregate of both kinds, and any person at any one time may possess not more than 15 in the aggregate of both kinds.

Band-tailed pigeons.—Ten, and any person at any one time may possess not more than 10.

The possession limits hereinabove prescribed shall apply as well to ducks, geese, brant, rails, including coot and gallinules, Wilson's snipe or jacksnipe, woodcock, mourning doves, white-winged doves, and band-tailed pigeons taken in Canada, Mexico, or other foreign country and brought into the United States, as to those taken in the United States.

Regulation 6, "Shipment, Transportation, and Possession of Certain Migratory Game Birds", is amended to read as follows:

Regulation 6.—Shipment, Transportation, and Possession of Certain Migratory Game Birds

Migratory game birds of a species for which open seasons are prescribed by regulation 4 of these regulations, legally taken, and parts thereof, may be transported in or out of the State where taken during the respective open seasons in that State, and when legally taken in and exported from Canada or Mexico, and if from Mexico are accompanied by a Mexican export permit, may be transported into the United States during the open season in the Province, State, or District where killed, but not more than the number thereof permitted by regulation 5 of these regulations to be taken by one person in 1 day, or in 2 days in the case of ducks, geese, and brant, shall be transported by any one person in 1 calendar week out of the State where taken or from Canada or Mexico into the United States; any such birds or parts thereof in transit during the open season may continue in transit such additional time immediately succeeding such open season, not to exceed 5 days, necessary to deliver the same to their destination, and may be possessed in any State, Territory, or District during the period constituting the open season where taken, and for an additional period of 10 days next succeeding said open season; and any package in which such birds or parts thereof are transported shall have the name and address of the shipper and of the consignee and an accurate statement of the numbers and kinds of birds or parts thereof contained therein clearly and conspicuously marked on the outside thereof; but no such birds or parts thereof shall be transported from any State or Territory, or the District of Columbia to or through another State or Territory, or the District of Columbia, or to or through Canada or Mexico contrary to the laws of the State or Territory, or the District of Columbia in which they were taken or from which they are transported; nor shall any such birds or parts thereof be transported into any State or Territory, or the District of Columbia, from another State or Territory, or the District of Columbia, or from Canada or Mexico, or from any State or Territory, or the District of Columbia into any Province of the Dominion of Canada or into Mexico at a time when any such State, Territory, District, or Province, or Mexico, into which they are transported, prohibits the possession or transportation thereof.

Migratory game birds imported from countries other than Canada and Mexico.—Migratory game birds of a species for which open seasons are prescribed by regulation 4 of these regulations, legally taken in and exported from a foreign

country (other than Canada and Mexico, for which provision is hereinbefore made) may be transported to any State or Territory during the open season prescribed by said regulation 4 for such State or Territory for that species, and to the District of Columbia during the open season so prescribed for Maryland, and may be possessed in such State, Territory, or District for an additional period of 10 days immediately succeeding such open season, in numbers by any one person in 1 calendar week not exceeding those permitted by regulation 5 of these regulations to be taken by one person in 1 day, or in 2 days in the case of ducks, geese, and brant, if transportation and possession of such birds is not prohibited by such State, Territory, or District and if transported in packages marked as hereinbefore provided in this regulation.

Paragraph numbered 2 of Regulation 8, "Permits to Propagate Waterfowl", is amended by striking out the word "retail" before the words "dealer in meat or game."

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States Department of Agriculture to be affixed.

DONE at the City of Washington this 12th day of July, 1938.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

AND WHEREAS upon consideration it appears that approval of the foregoing amendatory regulations will effectuate the purposes of the aforesaid Migratory Bird Treaty Act:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby approve and proclaim the foregoing amendatory regulations.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 16th day of July, in the year of [SEAL] our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D. ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

[No. 2291]

[F. R. Doc. 38-2066; Filed, July 19, 1938;
12:33 p. m.]

**FORT LARAMIE NATIONAL MONUMENT—
WYOMING**

BY THE PRESIDENT OF THE UNITED STATES
OF AMERICA

A PROCLAMATION

WHEREAS The Historical Landmark Commission of Wyoming has donated to

the United States in trust certain lands with the structures thereon comprising the abandoned Fort Laramie, for the purpose of improving, preserving, and conducting such lands and structures as a public historical site; and

WHEREAS the lands and structures are of great historic interest and constitute a historic landmark; and

WHEREAS it appears that it would be in the public interest to reserve such lands and structures as a national monument, to be known as the Fort Laramie National Monument:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by section 2 of the act of June 8, 1906, ch. 3060, 34 Stat. 225 (U. S. C., title 16, sec. 431), do proclaim that the following-described lands in Wyoming are hereby reserved and set apart as the Fort Laramie National Monument:

Commencing at the corner common to Sections 20, 21, 28 and 29 in Township 26 North, Range 64 West of the Sixth Principal Meridian, Wyoming, thence due West 1320 feet, the POINT OF BEGINNING; thence due North 1320 feet to a point; thence due East 1725 feet to a point; thence due South parallel to section lines between Sections 20 and 21 and Sections 29 and 28, 3960 feet to a point; thence due West 3045 feet to a point; thence due North 1320 feet to a point; thence due East 355 feet to a point on the easterly right-of-way line of the county road; thence North 26 degrees 39 minutes east 685.4 feet to a point on the said easterly right-of-way line of the county road; thence North 28 degrees 55' East 808.1 feet to a point on the said easterly right-of-way line and on the section line common to Sections 20 and 29; thence due east 266.9 feet along said section line between sections 20 and 29 to the point of beginning excepting, however, the land occupied by the county road which traverses the northwest corner of the southwest quarter of the northeast quarter of said Section 29, containing in all 214.41 acres, more or less.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument, and not to locate or settle upon any of the lands thereof.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of this monument as provided in the act of Congress entitled "An act to establish a National Park Service, and for other purposes," approved August 25, 1916, 39 Stat. 535 (U. S. C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 16th day of July in the year of [SEAL] our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL
Secretary of State.

[No. 2292]

[F. R. Doc. 38-2067; Filed, July 19, 1938;
12:33 p. m.]

OCALA NATIONAL FOREST—FLORIDA

BY THE PRESIDENT OF THE UNITED STATES
OF AMERICA

A PROCLAMATION

WHEREAS it appears that it would be in the public interest to include within and reserve as part of the Ocala National Forest, in the State of Florida, certain forest lands which have been or may be acquired under the authority of the act of Congress approved March 1, 1911, 36 Stat. 961 (U. S. C., title 16, sec. 516), as amended by the act of June 7, 1924, 43 Stat. 653 (U. S. C., title 16, sec. 515), and certain intermingled public lands:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the power vested in me by section 24 of the act of March 3, 1891, 26 Stat. 1103 (U. S. C., title 16, sec. 471), the act of June 4, 1897, 30 Stat. 34, 36 (U. S. C., title 16, sec. 473), and section 11 of the act of March 1, 1911, 36 Stat. 963 (U. S. C., title 16, sec. 521), do proclaim that there are hereby included in and reserved as part of the Ocala National Forest, in the State of Florida, all lands of the United States within the areas shown on the diagram attached hereto and made a part hereof,¹ and that all lands therein which may hereafter be acquired by the United States under the said act of March 1, 1911, as amended by the said act of June 7, 1924, shall upon their acquisition be reserved and administered as part of the said national forest.

The reservation made by this proclamation shall as to all lands which are at this date legally appropriated under the public-land laws or reserved for any public purpose other than for classification under Executive Order No. 6964 of February 5, 1935, as amended, be subject to, and shall not interfere with or defeat, legal rights under such appropriation, nor prevent the use for such public purpose of lands so reserved, so long as such appropriation is legally maintained or such reservation remains in force.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

¹ See p. 1770.

DONE at the City of Washington, this 16th day of July in the year of [SEAL] our Lord nineteen hundred and thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL,
Secretary of State.

[No. 2293]

[F. R. Doc. 38-2068; Filed, July 19, 1938;
12:33 p. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

[Amendment 1 to S. and R. Announcements
143, Rev.]

AMENDMENT TO RULES AND REGULATIONS FOR CARRYING OUT THE PROVISIONS OF THE EXPORT APPLE AND PEAR ACT

By virtue of the authority vested in the Secretary of Agriculture by "An Act To promote the foreign trade of the United States in apples and/or pears, to protect the reputation of American-grown apples and pears in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes," approved June 10, 1933 (48 Stat. 123), known as the Export Apple and Pear Act, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby amend Regulation 13 (7 C. F. R., 33.17) of the rules and regulations issued under said Act on the 30th day of March, 1938,¹ to read as follows and to become effective on August 1, 1938:

REGULATION 13

Any shipment of apples and/or pears of less than 400 bushels in packages is hereby defined as a less-than-a carload quantity for the purposes of the act. Such shipments to Mexico, Cuba and the West Indies, Bahamas, Bermuda Islands, Newfoundland, or other islands adjacent to North America, or any country in Central America or South America except Argentina, or to any African port not on the Mediterranean Sea, or to any trans-Pacific port, need not comply with the requirements of the act: Provided, That shipments of less than 200 pounds gross weight to any foreign destination shall not be subject to the provisions of this act.

It is directed that notice of this amendment shall be published in at least two trade papers of the fruit industry within one week of its promulgation.

¹ 3 F. R. 788 DI.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 19th day of July 1938.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-2064; Filed, July 19, 1938;
12:07 p. m.]

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B. E. P. Q.—475]

FUMIGATION OF ONIONS BY METHYL BROMIDE AS A CONDITION OF CERTIFICATION OF ONIONS MOVING BY REFRIGERATOR CAR FROM THE AREA LISTED IN REGULATION 5 OF QUARANTINE NO. 48

ADMINISTRATIVE INSTRUCTIONS

Regulation 5, Sec. B, paragraph (6) of the Japanese beetle quarantine (No. 48)¹ authorizes the issuance of certificates for the interstate movement of onions via refrigerator car from the area listed in that regulation to points outside the regulated areas between June 15 and October 15 when the onions have been fumigated in the car, when deemed necessary in the judgment of the inspector and when the doors and hatches of the car have been tightly closed or adequately screened under the supervision of an inspector.

Treatment Authorized

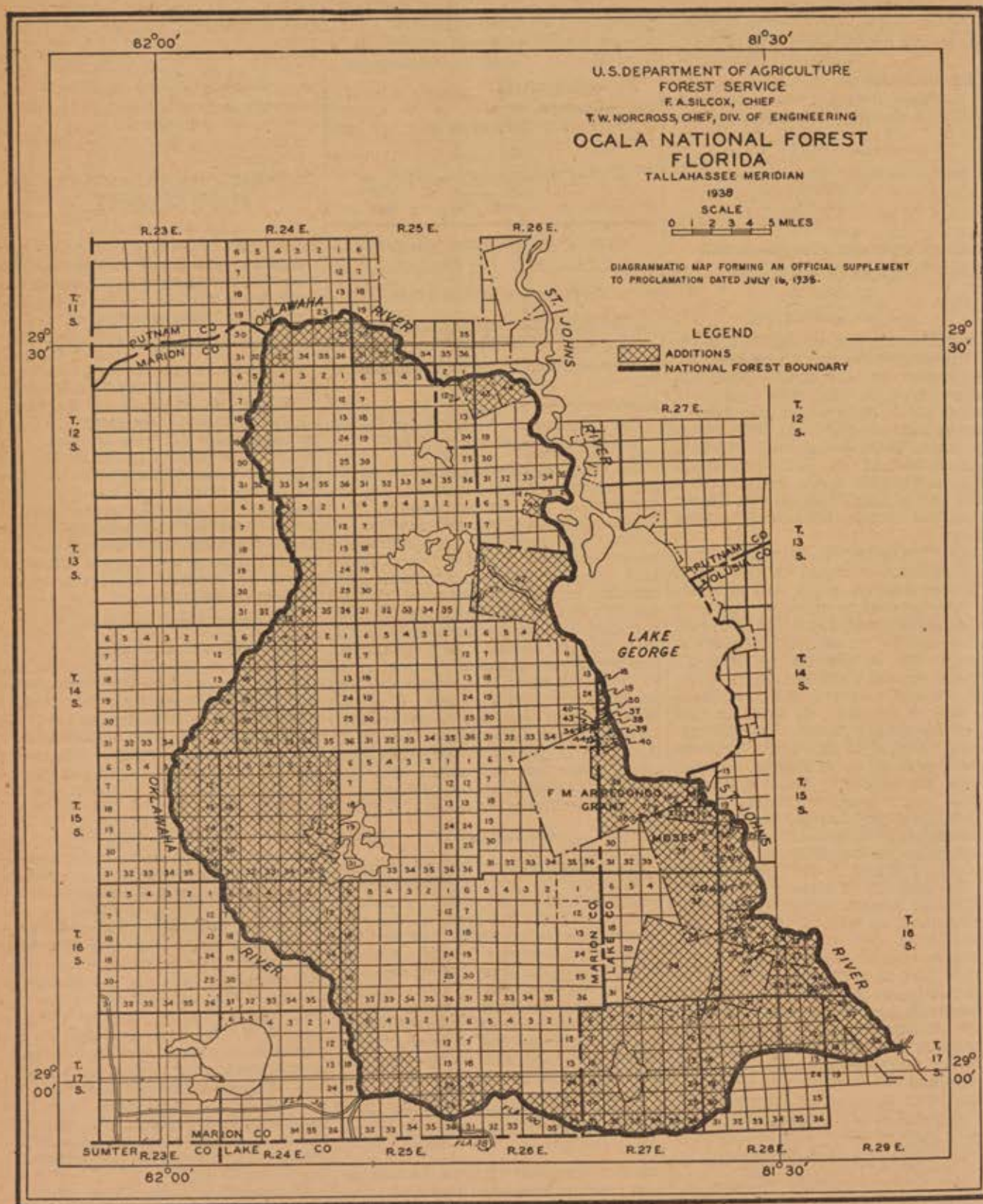
The treatment described herein has been found to be effective against the Japanese beetle and such treatment is authorized as a basis for certification of onions moving to points outside the regulated areas between June 15 and October 15 via refrigerator car when such treatment is carried out under the supervision of an inspector and in a manner satisfactory to him.

Treatment Method

Fumigation of onions in dry refrigerator cars with methyl bromide at a dosage of 2 pounds per 1,000 cubic feet of space, including the space occupied by the onions and bunkers of the cars, for a period of 2 hours, during which time the car shall remain tightly closed with the plugs in place in the ventilator hatches. The temperature within the car when fumigated shall be not less than 70° F. Provision shall be made for circulating the mixture of air and fumigant in the car for as long a time as is deemed necessary by the inspector. At the end of the fumigation period the hatches shall be opened, the plugs removed, screens placed in the hatch openings, and the car shipped under standard ventilation.

In authorizing the movement of onions fumigated according to the requirements stated above, it is to be understood that

¹ 1 F. R. 32.



no liability shall attach either to the United States Department of Agriculture or to any of its employees in the event of injury.

Caution.—Methyl bromide is a gas at ordinary temperatures. It is colorless and practically odorless in concentration used for the fumigation of onions. It is a poison, and the operator should use an approved gas mask when exposed to the gas at concentrations used in fumigation, and when opening the hatches for ventilating the cars. The car should not be entered until it is well aerated.

[SEAL] LEE A. STRONG,
Chief, Bureau of Entomology
and Plant Quarantine.

[F. R. Doc. 38-2065; Filed, July 19, 1938;
12:07 p. m.]

TITLE 26—INTERNAL REVENUE BUREAU OF INTERNAL REVENUE

[T. D. 4828]

INCOME TAX

REGULATIONS 94, 86, 77, 74, 69, 65, AND 62
AMENDED TO ACCORD WITH SECTION 816
OF THE REVENUE ACT OF 1938, WITH RE-
SPECT TO EXTENSIONS OF TIME FOR PAY-
MENT OF DEFICIENCIES IN INCOME TAX

To Collectors of Internal Revenue and Others Concerned:

1. In order to accord with section 816 of the Revenue Act of 1938, enacted May 28, 1938 (Public, No. 554, Seventy-fifth Congress, Chapter 289, third session), with respect to extensions of time for the payment of deficiencies in income tax under the Revenue Acts of 1936, 1934, 1932, 1928, 1926, 1924, and 1921, Regulations 94, 86, 77, 74, 69, 65, and 62 are amended as follows:

(a) The following is inserted immediately preceding article 272-1 of Regulations 94 and 86, article 1171 of Regulations 77 and 74, article 1231 of Regulations 69 and 65, and article 1001 of Regulations 62:

"Section 816 of Title V of the Revenue Act of 1938 provides:

Sec. 816. *Extension of Time for Payment of Deficiencies Approved by Commissioner.*—The requirement of section 272 (j) of the Revenue Act of 1936, 1934, 1932, and 1928, section 274 (k) of the Revenue Act of 1926, as amended, section 274 (g) of the Revenue Act of 1924, section 250 (f) of the Revenue Act of 1921, section 513 (i) of the Revenue Act of 1932, and section 308 (i) of the Revenue Act of 1926, of approval by the Secretary of extension of time for payment of deficiency in income, estate, or gift tax shall not apply after thirty days after the date of the enactment of this Act, but the approval shall be by the Commissioner under regulations prescribed by the Commissioner with the approval of the Secretary.

(b) Article 272-3 of Regulations 94 and 86, article 1173 of Regulations 77 and 74, article 1234 of Regulations 69

and 65, and article 1014 of Regulations 62 are amended by inserting immediately following the heading of the first paragraph of each of those articles the following:

"(a) *Extensions granted prior to June 28, 1938.*—"

(c) The following is inserted after the last paragraph of each of the articles enumerated in paragraph 1 (b) of this Treasury Decision:

"(b) *Extensions granted on or after June 28, 1938.*—If it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date or dates prescribed for the payment thereof will result in undue hardship to the taxpayer, the Commissioner may grant an extension of time for the payment of the deficiency or any part thereof for a period not in excess of 18 months, and in exceptional cases for a further period not in excess of 12 months. The extension will not be granted upon a general statement of hardship. The term 'undue hardship' means more than an inconvenience to the taxpayer. It must appear that substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the taxpayer from making payment of the deficiency at the due date. If a market exists, the sale of property at the current market price is not ordinarily considered as resulting in an undue hardship. The Act provides that no extension will be granted where the deficiency is due to negligence or intentional disregard of rules and regulations or to fraud with intent to evade tax.

"An application for an extension of time for the payment of a deficiency should be made under oath on Form 1127 and must be accompanied or supported by evidence showing the undue hardship that would result to the taxpayer if the extension were refused. A sworn statement of assets and liabilities of the taxpayer and an itemized statement under oath showing all receipts and disbursements for each of the three months immediately preceding the month in which falls the date prescribed for the payment of the deficiency are required and should accompany the application. The application, with the evidence, must be filed with the collector, who will transmit it to the Commissioner with his recommendations as to the extension. When it is received by the Commissioner, it will be examined, and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the taxpayer will be notified. The Commissioner will not consider an application for an extension of time for the payment of a deficiency unless request therefor is made to the collector on or before the date prescribed for payment thereof, as shown by the notice and demand from the collector, or on or before the date or dates prescribed for payment in any prior extension granted.

"As a condition to the granting of such an extension, the Commissioner will usually require the taxpayer to furnish a bond on Form 1127B in an amount not exceeding double the amount of the deficiency or to furnish other security satisfactory to the Commissioner for the payment of the liability on or before the date or dates prescribed for payment in the extension, so that the risk of loss to the Government will not be greater at the end of the extension period than it was at the beginning of the period. If a bond is required it shall be conditioned upon the payment of the deficiency, interest, and additional amounts assessed in connection therewith in accordance with the terms of the extension granted, and shall be executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, and shall be subject to the approval of the Commissioner. In lieu of such a bond, the taxpayer may file a bond secured by deposit of bonds or notes of the United States as provided in section 1126 of the Revenue Act of 1926, as amended by the Act entitled 'An Act to amend the second Liberty Bond Act, as amended, and for other purposes', approved February 4, 1935 (49 Stat. 20). The amount of the deficiency and additions thereto shall be paid on or before the expiration of the period of the extension without the necessity of notice and demand from the collector. Payment of the deficiency and additions thereto before the expiration of the extension will not relieve the taxpayer from paying the entire amount of interest provided for in the extension."

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, July 15, 1938.

ROSWELL MAGILL,
Acting Secretary of the
Treasury.

[F. R. Doc. 38-2062; Filed, July 19, 1938;
10:16 a. m.]

[T. D. 4829]

EXCESS-PROFITS TAX

REGULATIONS RELATING TO THE EXCESS-
PROFITS TAX IMPOSED BY SECTION 602 OF
THE REVENUE ACT OF 1938

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. Section 601 (Title III—
Capital Stock and Excess-Profits Taxes)
of the Revenue Act of 1938, enacted May
28, 1938 (Public, No. 554, Seventy-fifth
Congress, Chapter 289, third session),
provides:

Sec. 601. *Capital Stock Tax.*—(a) For each
year ending June 30, beginning with the
year ending June 30, 1938, there is hereby
imposed upon every domestic corporation
with respect to carrying on or doing
business for any part of such year an excise
tax of \$1 for each \$1,000 of the adjusted
declared value of its capital stock.

(b) For each year ending June 30, begin-
ning with the year ending June 30, 1938,

* 1 F. R. 1802.

* 1 F. R. 1935.

* 1 F. R. 1936.

there is hereby imposed upon every foreign corporation with respect to carrying on or doing business in the United States for any part of such year an excise tax equivalent to \$1 for each \$1,000 of the adjusted declared value of capital employed in the transaction of its business in the United States.

(c) The taxes imposed by this section shall not apply—

(1) to any corporation enumerated in section 101 of this Act;

(2) to any insurance company subject to the tax imposed by sections 201, 204, or 207 of this Act.

(d) Every corporation liable for tax under this section shall make a return under oath within one month after the close of the year with respect to which such tax is imposed to the collector for the district in which is located its principal place of business or, if it has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such return shall contain such information and be made in such manner as the Commissioner with the approval of the Secretary may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector before the expiration of the period for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 6 per centum per annum from the time when the tax became due until paid. All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926 shall, insofar as not inconsistent with this section, be applicable in respect of the taxes imposed by this section. The Commissioner may extend the time for making the returns and paying the taxes imposed by this section, under such rules and regulations as he may prescribe with the approval of the Secretary, but no such extension shall be for more than sixty days.

(e) Returns required to be filed for the purpose of the tax imposed by this section shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

(f) (1) The adjusted declared value shall be determined with respect to three-year periods beginning with the year ending June 30, 1938, and each third year thereafter. The first year of each such three-year period, or, in case of a corporation not subject for such year to the tax imposed by this section, the first year of such three-year period for which the corporation is subject to the tax, shall constitute a 'declaration year'.

(2) For each declaration year the adjusted declared value shall be the value, as declared by the corporation in its return for such declaration year (which declaration of value cannot be amended), as of the close of its last income-tax taxable year ending with or prior to the close of such declaration year (or as of the date of organization in the case of a corporation having no income-tax taxable year ending with or prior to the close of such declaration year).

(3) For each year of any three-year period subsequent to the declaration year, the adjusted declared value in the case of a domestic corporation shall be the value declared in the return for the declaration year plus—

(A) the cash, and the fair market value of property, paid in for stock or shares,

(B) paid-in surplus and contributions to capital,

(C) its net income,

(D) its income wholly exempt from Federal income tax, and

(E) the amount, if any, by which the deduction for depletion exceeds the amount which would be allowable if computed without regard to discovery value or to per-

centage depletion, under section 114 (b) (2), (3), or (4) of this Act or a corresponding section of a later Revenue Act;

and minus—

(i) the cash, and the fair market value of property, distributed to shareholders,

(ii) the amount disallowed as a deduction by section 24 (a) (5) of this Act or a corresponding provision of a later Revenue Act, and

(iii) the excess of the deductions allowable for income tax purposes over its gross income.

(4) The adjustments provided in paragraph (3) shall be made for each income-tax taxable year included in the three-year period from the date as of which the value was declared in the return for the declaration year to the close of the last income-tax taxable year ending with or prior to the close of the year for which the tax is imposed by this section. The amount of such adjustment for each such year shall be computed (on the basis of a separate return) according to the income tax law applicable to such year.

(5) For each year of any three-year period subsequent to the declaration year, the adjusted declared value in the case of a foreign corporation shall be the value declared in the return for the declaration year adjusted (for the same income-tax taxable years as in the case of a domestic corporation), in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, to reflect increases or decreases in the capital employed in the transaction of its business in the United States.

(6) The capital-stock tax year beginning with or within an income-tax taxable year within which bankruptcy or receivership, due to insolvency, of a domestic corporation, is terminated shall constitute a declaration year. In such case the adjusted declared value for any subsequent year of the three-year period shall be determined on the basis of the value declared in the return for such declaration year.

(g) For the purpose of the tax imposed by this section there shall be allowed in the case of a corporation organized under the China Trade Act, 1922, as a credit against the adjusted declared value of its capital stock, an amount equal to the proportion of such adjusted declared value which the par value of the shares of stock of the corporation, owned on the last day of the taxable year by (1) persons resident in China, the United States, or possessions of the United States, and (2) individual citizens of the United States or China wherever resident, bears to the par value of the whole number of shares of stock of the corporation outstanding on such date. For the purposes of this subsection shares of stock of a corporation shall be considered to be owned by the person in whom the equitable right to the income from such shares is in good faith vested; and as used in this subsection the term "China" shall have the same meaning as when used in the China Trade Act, 1922.

(h) The capital stock tax imposed by section 105 of the Revenue Act of 1935, as amended, shall not apply to any taxpayer with respect to any year after the year ending June 30, 1937.

PAR. B. Section 602 (Title III) of the Revenue Act of 1938 provides:

SEC. 602. *Excess-profits tax.*—(a) If any corporation is taxable under section 601 with respect to any year ending June 30, there is hereby imposed upon its net income for the income-tax taxable year ending after the close of such year, an excess-profits tax equal to the sum of the following:

6 per centum of such portion of its net income for such income-tax taxable year as is in excess of 10 per centum and not in excess of 15 per centum of the adjusted declared value;

12 per centum of such portion of its net income for such income-tax taxable year as

is in excess of 15 per centum of the adjusted declared value.

(b) The adjusted declared value shall be determined as provided in section 601 as of the close of the preceding income-tax taxable year (or as of the date of organization if it had no preceding income-tax taxable year). If the income-tax taxable year in respect of which the tax under this section is imposed is a period of less than 12 months, such adjusted declared value shall be reduced to an amount which bears the same ratio thereto as the number of months in the period bears to 12 months. For the purposes of this section the net income shall be the same as the net income for income-tax purposes for the year in respect of which the tax under this section is imposed, computed without the deduction of the tax imposed by this section, but with a credit against net income equal to the credit for dividends received provided in section 26 (b) of this Act.

(c) All provisions of law (including penalties) applicable in respect of the taxes imposed by Title I of this Act, shall, insofar as not inconsistent with this section, be applicable in respect of the tax imposed by this section, except that the provisions of section 131 of that title shall not be applicable.

(d) The excess-profits tax imposed by section 106 of the Revenue Act of 1935, as amended, shall not apply to any taxpayer with respect to any income-tax taxable year ending after June 30, 1938.

PAR. C. Section 53 (Title I) of the Revenue Act of 1938 provides:

SEC. 53. *Time and place for filing returns.*—(a) *Time for filing.*—

(1) *General rule.*—Returns made on the basis of the calendar year shall be made on or before the 15th day of March following the close of the calendar year. Returns made on the basis of a fiscal year shall be made on or before the 15th day of the third month following the close of the fiscal year.

(2) *Extension of time.*—The Commissioner may grant a reasonable extension of time for filing returns, under such rules and regulations as he shall prescribe with the approval of the Secretary. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

(b) *To whom return made.*—

(1) *Individuals.*—Returns (other than corporation returns) shall be made to the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in the United States, then to the collector at Baltimore, Maryland.

(2) *Corporations.*—Returns of corporations shall be made to the collector of the district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in the United States, then to the collector at Baltimore, Maryland.

PAR. D. Section 145 (Title I) of the Revenue Act of 1938 provides:

SEC. 145. *Penalties.*—(a) Any person required under this title to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this title, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this title to collect, account for, and pay over any tax imposed by this title, who willfully fails to collect or truthfully account for and pay

over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(d) For penalties for failure to file information returns with respect to foreign personal holding companies and foreign corporations, see section 340.

PAR. E. Section 62 (Title I) of the Revenue Act of 1938 provides:

SEC. 62. *Rules and regulations.*—The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

Pursuant to the above-quoted provisions and other provisions of the internal revenue laws, the following regulations are hereby prescribed with respect to the excess-profits tax imposed by the Revenue Act of 1938:

ARTICLE 1. *Definitions.*—As used in these regulations, the term—

(a) *Adjusted declared value* means in the case of a domestic corporation the adjusted declared value of its capital stock as determined under section 601 of the Revenue Act of 1938, and the regulations issued respecting the capital stock tax imposed by that section and in the case of a foreign corporation the adjusted declared value of capital employed in the transaction of its business in the United States as determined under such section and the regulations issued in reference thereto.

(b) *Tax*, except as otherwise indicated, means the excess-profits tax imposed by section 602 of the Revenue Act of 1938.

(c) *Income-tax taxable year* means the calendar year, the fiscal year ending during such calendar year, or the fractional part of a year, upon the basis of which the corporation's net income is computed and for which its income tax returns are made for Federal income tax purposes.

(d) *Net income* means (1) "net income" within the contemplation of section 21 of the Revenue Act of 1936, or (2) in the case of an income-tax taxable year governed by the Revenue Act of 1938, "net income" within the contemplation of section 21 of the Revenue Act of 1938. Neither the amount of income tax imposed by the Revenue Act of 1936 or the Revenue Act of 1938, nor the amount of the excess-profits tax imposed by the Revenue Act of 1935, as amended, or the Revenue Act of 1938, shall be deducted from net income in computing the excess-profits tax and none of the credits allowed corporations against net income for income tax purposes are applicable in respect of the

excess-profits tax except the credit against net income equal to the credit for dividends received provided in section 26 (b) of the Revenue Act of 1936 and in section 26 (b) of the Revenue Act of 1938.

ART. 2. *Scope of tax.*—The excess-profits tax, imposed by section 602 of the Revenue Act of 1938, is imposed upon the net income of every corporation for each income-tax taxable year ending after the close of any year ending June 30 in respect of which the corporation is subject to the capital stock tax imposed by section 601 of that Act.

ART. 3. *Measure and rate of tax.*—(a) *Domestic and foreign corporations.*—The tax is imposed in an amount equal to the sum of (1) 6 percent of such portion of the corporation's net income for the income-tax taxable year as is in excess of 10 percent and not in excess of 15 percent of the adjusted declared value plus (2) 12 percent of such portion of its net income for the income-tax taxable year as is in excess of 15 percent of the adjusted declared value, as of the close of the last preceding income-tax taxable year (or as of the date of organization if the corporation had no preceding income-tax taxable year).

(b) *Adjusted declared value.*—No variation is permitted between the adjusted declared value set forth in the corporation's capital stock tax return and the adjusted declared value set forth in its excess-profits tax return, except that in the case of an excess-profits tax return for an income-tax taxable year which is a period of less than twelve months the adjusted declared value set forth in its capital stock tax return shall be reduced to an amount which bears the same ratio thereto as the number of months in the period bears to twelve months. The first return of a corporation covering the part of a year in which it was incorporated, or the final return of a corporation covering the part of the year in which it was dissolved, is a return for twelve months and not for a period of less than twelve months, for the purposes of this Treasury Decision.

ART. 4. *Method of computation, example.*—The application of the provisions of article 3 of these regulations may be illustrated generally by the following example:

Example.—The M Corporation, the income-tax taxable year of which is the calendar year, is subject to the capital stock tax imposed by section 601 of the Revenue Act of 1938 for the year ending June 30, 1938. The value declared in its capital stock tax return for the year ending June 30, 1938, of its capital stock as of the close of its preceding income-tax taxable year (the calendar year 1937) is \$100,000. The net income of the corporation for the calendar year 1938, determined under the Revenue Act of 1938, is \$25,000. (The net income for income-tax taxable years beginning after

December 31, 1937, shall be determined under the Revenue Act of 1938.) During its taxable year the corporation received dividends from corporations subject to taxation under Title I of the Revenue Act of 1938, amounting to \$5,000. The excess-profits tax for the calendar year 1938 is \$990, computed as follows:

Net incomes for calendar year 1938..	\$25,000
Less:	
Credit for dividends received (85 percent of \$5,000).....	4,250
Balance of net income.....	20,750
Less:	
10 percent of the value declared in the capital stock tax return for the year ending June 30, 1938, of the capital stock as of December 31, 1937 (10 percent of \$100,000).....	10,000
Net income subject to excess-profits tax.....	10,750
Less:	
Amount taxable at 6 percent, portion of net income in excess of 10 percent and not in excess of 15 percent of the adjusted declared value of the capital stock as of December 31, 1937 (\$15,000 minus \$10,000).....	5,000
Amount taxable at 12 percent.....	5,750
Excess-profits tax at 6 percent (6 percent of \$5,000).....	300
Excess-profits tax at 12 percent (12 percent of \$5,750).....	690
Total excess-profits tax (\$300 plus \$690).....	990

ART. 5. *Returns.*—Every corporation which is subject to the capital stock tax imposed by section 601 of the Revenue Act of 1938, for any year shall make an excess-profits tax return for each income-tax taxable year which ends after the close of the year in respect of which it is subject to such capital stock tax. There is no provision in the Revenue Act of 1938 which authorizes the making of a consolidated return by an affiliated group of corporations for the purpose of the excess-profits tax imposed by section 602 of that Act. Accordingly, every corporation which is liable for the making of an excess-profits tax return under section 602 of the Revenue Act of 1938 (for any income-tax taxable year ending after June 30, 1938), whether or not such corporation is a member of an affiliated group of corporations, must make its excess-profits tax return and compute its net income separately, without regard to the provisions of section 141 of the Revenue Act of 1938.

The excess-profits tax return shall be made within the time prescribed for making the corporation's Federal income tax return for the income-tax taxable year, and shall be made to the collector of internal revenue to whom such income tax return is required to be made.

ART. 6. *Payment of tax.*—The excess-profits tax for any income-tax taxable year shall be paid within the time pre-

scribed for paying the Federal income tax for such taxable year.

ART. 7. Credits against tax prohibited.—Foreign income and profits taxes may not be credited against the excess-profits tax imposed by section 602 of the Revenue Act of 1938.

ART. 8. Determination of tax, assessment, collection.—The determination, assessment, and collection of the tax, and the examination of returns and claims in connection therewith, will be made under such procedure as may be prescribed from time to time by the Commissioner.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.
Approved, July 15, 1938.

ROSWELL MAGILL,
Acting Secretary of the
Treasury.

[F. R. Doc. 38-2063; Filed, July 19, 1938;
10:16 a. m.]

Notices

RURAL ELECTRIFICATION ADMINISTRATION.

[Administrative Order No. 272]

ALLOCATION OF FUNDS FOR LOANS

JULY 14, 1938.

By virtue of the authority vested in me by the provisions of the Rural Electrification Act of 1936, I hereby allocate, out of unexpended sums made available for loans under said Act during the fiscal year ending June 30, 1939, funds for a loan pursuant to Section 4 of said Act for the project specified below in the amount indicated.

Project	Amount
North Carolina 9014B2 Pitt.....	\$15,000
Virginia 9011D1 Rockingham.....	273,000

JOHN M. CARMODY,
Administrator.

[F. R. Doc. 38-2061; Filed, July 19, 1938;
9:37 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of July, A. D. 1938.

[File Nos. 55-5, 55-6]

IN THE MATTER OF HUGH M. MORRIS AND JOHN N. SHANNAHAN, TRUSTEES OF THE ESTATE OF MIDLAND UNITED COMPANY

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to sections 11 (f) and 20 (a) and Rule 11-F-2 of the Public Utility Holding Company Act of 1935, having been duly filed with this

Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on August 5, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 30, 1938.

The matter concerned herewith is in regard to applications filed by Hugh M. Morris and John N. Shannahan, Trustees of the Estate of Midland United Company, now in reorganization under Section 77B of the Bankruptcy Act, as amended, pending in the District Court of the United States for the District of Delaware (No. 1073), and Millard B. Kennedy as their general counsel, requesting approval by the Commission as to the maximum amount that may be reasonably paid to said Millard B. Kennedy as such counsel as an ad interim allowance on account of services rendered and for reimbursement for cash disbursements made by him as follows:

(a) Services rendered by Millard B. Kennedy during the period September 1, 1937 to June 1, 1938, \$15,750.

(b) For expenditures made by Millard B. Kennedy during the months of March, April and May 1938, \$829.14.

The applicants further request an exemption from the provisions of Rule U-11-F-2 with respect to the payment of compensation for services to be rendered by said Millard B. Kennedy as such general counsel, such exemption to be for the sum of \$1,750 per month as an ad interim allowance on account of services rendered by him subsequent to May 31, 1938, plus reimbursement for actual cash disbursements made by him subsequent to May 31, 1938, on behalf of said Trustees in connection with his duties as such general counsel, and said

Trustees represent that no such payments on account of compensation will be made unless authorized by the District Court of the United States for the District of Delaware which now has jurisdiction over the said proceedings for reorganization of Midland United Company, and that no such payments on account of expenditures will be made unless approved as to character and amount by said Trustees.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.
[F. R. Doc. 38-2072; Filed, July 19, 1938;
12:50 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19 day of July, A. D. 1938.

[File Nos. 55-7, 55-8]

IN THE MATTER OF HUGH M. MORRIS AND JOHN N. SHANNAHAN, TRUSTEES OF THE ESTATE OF MIDLAND UTILITIES COMPANY, AND MILLARD B. KENNEDY

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to sections 11 (f) and 20 (a) and Rule U-11F-2 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter be held on August 5, 1938, at 2 o'clock in the afternoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 30, 1938.

The matter concerned herewith is in regard to applications filed by Hugh M. Morris and John N. Shannahan, Trus-

tees of the Estate of Midland Utilities Company (in reorganization under Section 77B of the Bankruptcy Act, as amended, pending in the District Court of the United States for the District of Delaware, No. 1073) and of Millard B. Kennedy as their general counsel requesting approval by the Commission as to the maximum amount that may reasonably be paid to Millard B. Kennedy as such counsel as an ad interim allowance on account of services rendered and for reimbursement for cash disbursements made by him as follows:

(a) For services rendered for the period September 1, 1937 to June 1, 1938, \$11,250.

(b) For expenditures made during the months of March, April and May, 1938, \$506.46.

The applicants further request an exemption from the provisions of Rule U-11F-2 with respect to the payment of compensation for services to be rendered by said Millard B. Kennedy as such general counsel, such exemption to be for the sum of \$1,250 per month as an ad interim allowance on account of services rendered by him subsequent to May 31, 1938, plus reimbursement for actual cash disbursements made by him subsequent to May 31, 1938, on behalf of said Trustees in connection with his duties as such general counsel, and said Trustees represent that no such payments on account of compensation will be made unless authorized by the District Court of the United States for the District of Delaware, which now has jurisdiction over the said proceedings for reorganization of the Midland Utilities Company, Debtor, and that no such payments on account of expenditures will be made unless approved as to character and amount by said Trustees.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[P. R. Doc. 38-2069; Filed, July 19, 1938;
12:50 p. m.]

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of July, A. D. 1938.

[File Nos. 43-138, 46-104]

IN THE MATTERS OF COPPER DISTRICT
POWER COMPANY, THE MIDDLE WEST
CORPORATION

NOTICE OF AND ORDER FOR HEARING

A declaration (File No. 43-138) pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by Copper District Power Company, a sub-

siary company of The Middle West Corporation, a registered holding company, regarding the issue and sale by it of six unsecured promissory notes aggregating \$78,750, to be dated on the effective date of this declaration, to mature one year after the date thereof, each note to bear 4½ per cent interest. Three of the notes in the face amounts of \$18,000, \$15,750 and \$5,625 aggregating \$39,375 are to be issued to Copper Range Company, and three notes in the same face amounts aggregating \$39,375 are to be issued to The Middle West Corporation;

An application having been duly filed by The Middle West Corporation, a registered holding company, pursuant to section 10 (a) (1) of the Act, for approval by the Commission of the acquisition by it of three unsecured promissory notes in the face amounts of \$18,000, \$15,750 and \$5,625, as described above;

It appearing to the Commission that these related matters should be heard and considered together;

It is ordered, That a joint hearing on such matters be held on August 4, 1938, at 10:00 A. M. in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 30, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[P. R. Doc. 38-2070; Filed, July 19, 1938;
12:50 p. m.]

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its

office in the City of Washington, D. C., on the 19th day of July, A. D. 1938.

[File No. 32-97]

IN THE MATTER OF INDIANAPOLIS POWER &
LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered That a hearing on such matter be held on August 2, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 30, 1938.

The matter concerned herewith is in regard to the application of Indianapolis Power & Light Company, a subsidiary of Utilities Power & Light Corporation, a registered holding company, for exemption, from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935, of the issue and sale, at not less than 97% of the principal amount, of \$32,000,000 principal amount of Applicant's new First Mortgage Bonds, dated August 1, 1938, such bonds to bear interest at not more than 3¾% per annum and to mature not more than thirty years after the date thereof, and of the issue and sale, at not less than 98% of the principal amount, of \$5,500,000 principal amount of Applicant's unsecured Serial Notes, dated August 1, 1938, such notes to bear interest at not more than 4% per annum and to mature serially in not more than ten years after the date thereof, the net proceeds of the issue and sale of such bonds and notes to be used for the redemption of the outstanding \$37,509,000 principal amount of

Applicant's First Mortgage Gold Bonds 5%, Series A, due January 1, 1957, at 104% of the principal amount thereof, plus accrued interest thereon to sixty days after the date of the notice of redemption.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2071; Filed, July 19, 1938;
12:50 p. m.]

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of July, A. D. 1938

[File No. 1-1119]

IN THE MATTER OF RAINBOW LUMINOUS
PRODUCTS, INC., COMMON STOCK, CLASS
A AND B, NO PAR VALUE

ORDER FOR HEARING

I

It appearing to the Commission:

That Rainbow Luminous Products, Inc., a corporation, is the issuer of Common Stock, Class A, no par value, and Common Stock, Class B, no par value; and

That said Rainbow Luminous Products, Inc., registered such securities on the New York Curb Exchange, a national securities exchange, by filing on or about May 16, 1935, an application signed for the company by Mr. E. C. Bull, President, with the said exchange and with the Commission pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule JB1, as amended, promulgated by the Commission thereunder; and

That pursuant to Sections 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, and Rules KA1 and KA2 promulgated by the Commission thereunder, said Rainbow Luminous Products, Inc., filed on or about July 1, 1936, and on or about June 29, 1937, its annual reports on Form 10-K for the respective fiscal years ended December 31, 1935, and December 31, 1936, both being signed for the company by Mr. W. M. Martin, Treasurer; and

That Rule KA1 promulgated pursuant to Section 13 (a) of said Securities Exchange Act of 1934, as amended, did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That Rule KA2 promulgated pursuant to Section 13 (b) of said Securities Exchange Act of 1934, as amended, did and does prescribe Form 10-K as the annual report form to be used for the annual reports of all corporations except those for which another form is specified and that no other form was or is specified for use by the said Rainbow Luminous Products, Inc.; and

II

The Commission having reason to believe:

That Rainbow Luminous Products, Inc., has failed to comply with said Sections 13 (a) and (b) and the Rules and Regulations promulgated thereunder in that it has failed to file the information and documents required by Rule KA1 adopted by the Commission pursuant to Section 13 (a), and has failed to file its annual report for the year ended December 31, 1937, on Form 10-K, as required by Rule KA2 adopted by the Commission pursuant to said Section 13 (b); and

III

The Commission being of the opinion that pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing should be held to determine whether said Rainbow Luminous Products, Inc. has so failed to comply with said provisions of said Sections 13 (a) and (b) and said Rules and Regulations promulgated by the Commission thereunder, or with any provision of said sections, or of any rule or regulation promulgated by the Commission under said sections, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding 12 months or to withdraw the registration of said Common Stock, Class A, no par value, and Common Stock, Class B, no par value, on said New York Curb Exchange;

It is ordered, That a public hearing be held for such purpose before the officer of the Commission herein designated beginning on the 26th day of July, 1938, at 10:00 A. M. in Room 1103 at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue, N. W., Washington, D. C., and to continue thereafter at such times and places as said officer may determine; and

It is further ordered, That for the purpose of such proceeding, Chas. S. Lobingier, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, and require the production of any books, papers, correspondence, memoranda or other records

deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2073; Filed, July 19, 1938;
12:51 p. m.]

*United States of America—Before the
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of July, A. D. 1938.

[File No. 2-3185]

IN THE MATTER OF UNITY GOLD
CORPORATION

STOP ORDER

This matter coming on to be heard by the Commission on the registration statement of Unity Gold Corporation, a Montana corporation, and the proposed amendments filed June 14, July 17, July 22, July 23, and November 1, 1937, and February 17, 1938, to such registration statement, after confirmed telegraphic notice by the Commission to said registrant that it appears that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and omits to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant, and the Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading, in Items 3, 11, 18, 20, 25, 27, 30, 31, 34, 36, 38, 46, 50, 54, and 55, Exhibit D (re-entitled Exhibit "H" by amendment of November 1, 1937), and the prospectus, as more fully set forth in the Commission's Findings of Fact and Opinion this day issued, and it not appearing to the Commission that the aforesaid amendments, on their face, are not incomplete or inaccurate in any material respect, and the Commission being now fully advised in the premises,

It is ordered, Pursuant to Section 8 (d) of the Securities Act of 1933, that the effectiveness of the registration statement filed by Unity Gold Corporation, a

Montana corporation, be and the same hereby is suspended; and

It is ordered further, That the amendments filed by Unity Gold Corporation, a Montana corporation, on June 14, July 17, July 22, July 23, and November 1, 1937, and February 17, 1938, not be declared effective.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-2074; Filed, July 19, 1938;
12:51 p. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT
CLOSE OF BUSINESS FRIDAY, JULY 15,
1938

Important.—Although the apportioned classified civil service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts, and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eli-

gibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Puerto Rico.....	675	37
2. Hawaii.....	137	15
3. Alaska.....	22	7
4. California.....	2,114	747
5. Texas.....	2,109	894
6. Louisiana.....	782	365
7. Michigan.....	1,803	849
8. Arizona.....	162	79
9. New Jersey.....	1,505	709
10. South Carolina.....	647	369
11. Ohio.....	2,475	1,490
12. Oklahoma.....	892	533
13. Arkansas.....	690	422
14. Alabama.....	985	604
15. Mississippi.....	748	461
16. New Mexico.....	158	99
17. North Carolina.....	1,180	769
18. Georgia.....	1,083	728
19. Kentucky.....	974	665
20. Wisconsin.....	1,094	823
21. Illinois.....	2,841	2,170
22. Tennessee.....	974	749
23. Nevada.....	34	27
24. Connecticut.....	598	475
25. Delaware.....	89	80
26. Oregon.....	355	320
27. Indiana.....	1,206	1,060
28. Florida.....	547	500
29. New York.....	4,687	4,357
30. Pennsylvania.....	3,586	3,372
31. Utah.....	189	178
32. Idaho.....	166	157
33. Wyoming.....	84	80
34. New Hampshire.....	173	166
35. Washington.....	582	560
36. Colorado.....	386	382
QUOTA FILLED		
37. Maine.....	297	297

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1935
IN EXCESS			
38. Massachusetts.....	1,582	1,583	+1
39. Rhode Island.....	256	287	+31
40. West Virginia.....	644	649	+5
41. North Dakota.....	253	256	+3
42. Kansas.....	700	714	+14
43. Vermont.....	134	140	+6
44. Missouri.....	1,351	1,425	+74
45. Minnesota.....	955	1,041	+86
46. South Dakota.....	258	259	+1
47. Montana.....	200	227	+27
48. Iowa.....	920	1,080	+160
49. Nebraska.....	513	623	+110
50. Virginia.....	902	1,940	+1,038
51. Maryland.....	607	1,848	+1,241
52. D. C.....	181	8,751	+8,570
GAINS			
By appointment.....			162
By reinstatement.....			3
By transfer.....			37
By correction.....			1
Total.....			203
LOSSES			
By separation.....			172
By transfer.....			43
By correction.....			1
Total.....			216
Total appointments.....			46,448

Note.—Number of employees occupying apportioned positions who are excluded from the apportionment figures under Section 2, Rule VII, and the Attorney General's opinion of August 25, 1934, 13860.

By direction of the Commission:

[SEAL] L. A. MOYER,
*Executive Director and
Chief Examiner.*

[F. R. Doc. 38-2059; Filed, July 18, 1938;
1:17 p. m.]

